

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, June 1, 1998

DIVISION ONE

A076627 -- Arthur A. Loube et al. v. Irving Loube et al.

The judgment is affirmed except insofar as it awards respondents their attorney fees. The matter is remanded to the trial court to redetermine attorney fees. Each party will bear its own costs on appeal. Stein, J. We concur: Strankman, P.J., Dossee, J.* *Retired Associate Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article 6, section 6 of the California Constitution. (Certified for Partial Publication.)

DIVISION THREE

A081713 -- Jesus Alcala A. v. The Superior Court of the City and County of Contra Costa, Olivia Alcala G., Contra Costa County Department of Social Services, R.P.I.

The petition is hereby dismissed. The section 366.26 hearing is set for June 1, 1998. Therefore, our decision is final in this court immediately. Parrilli, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, June 2, 1998

DIVISION ONE

A068499 -- Rena Weeks v. Baker & McKenzie et al.

Order Modifying Opinion and Denying Rehearing; The Court: It is ordered that the opinion filed herein on May 4, 1998, be modified in the following particulars: (See Order) Appellants' petition for rehearing is denied. There is no change in the judgment. Strankman, P.J. (Certified for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, June 3, 1998

DIVISION ONE

**A081516 -- In re George William V. G., a Person Coming Under the
Juvenile Court Law.**

The order adjudging appellant a ward of the court pursuant to Welfare and Institutions Code section 602 and placing him at CYA is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

DIVISION THREE

A076673 -- The People v. Carl Lee Breaux.

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

A076881 -- Tong Myung Park v. Ned M. Grove.

The judgment is reversed, and the case is remanded. Costs to appellant. Corrigan, J. I concur: Walker, J. See Dissenting Opinion of Phelan, J. (Not for Publication.)

A077969 -- Craig L. Linden et al. v. Proven Alternatives, Inc., et al.

The judgment is affirmed. The parties are to bear their own costs on appeal. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

Wednesday, June 3, 1998 (continued)

A078003 -- United Public Employees Local No. 790, AFL-CIO v. Board of Port Commissioners of the Port of Oakland et al.

The judgment is reversed. The trial court is ordered to enter a new judgment granting the Union's motion to compel arbitration consistent with the views expressed in this opinion. Costs to appellant. Parrilli, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

DIVISION FIVE

A079359 -- Talmage R. Rushing et al. v. David K. Roberts et al.

The order holding appellants in contempt is affirmed.

Since the settlement agreement order contains an attorney fee clause, we remand the case to the trial court so it can calculate the fees to which respondents are entitled as a result of their attorney's efforts on appeal. (See Security Pacific National Bank v. Adamo (1983) 142 Cal.App.3d 492, 498.)

Respondents' request for sanctions is denied. Peterson, P.J. I concur: Jones, J. See Dissenting Opinion of Justice Zerne P. Haning. (Not for Publication.)

A080757 -- The People v. Edwin Curtis Frazier.

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, June 4, 1998

DIVISION TWO

**A079355 -- Robert Marx, et al. v. Board of Supervisors of Bel Marin
Keys Community Services District, etc., et al.**

We reverse only that portion of the judgment denying appellants' petition for a writ of mandate. We remand the case to the trial court for action consistent with our holding in Part III, E, 2, above and any other action not inconsistent with the foregoing. We affirm the judgment in all other respects. Each party is to bear their own costs on appeal. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

DIVISION THREE

**A077007 & A078355 -- In re the Marriage of Suzanne Corrine
McKitrick and Michael Lee McKitrick.**

The judgment and the order modifying it are affirmed. The parties shall bear their own costs on appeal. Parrilli, J. We concur: Corrigan, Actg. P.J., Walker, J. (Not for Publication.)

DIVISION FIVE

A079938 -- The People v. Charles Wilkins.

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL'
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, June 5, 1998

DIVISION ONE

A076797 -- Alliance Financial et al. v. City and County of San Francisco.

The judgment is reversed. Alliance is awarded its costs on appeal. Stein, J. We concur: Strankman, P.J., Dossee, J.* *Retired Associate Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article 6, section 6 of the California Constitution. (Certified for Publication.)

A077714 -- James G. Hansell et al. v. Santos Robinson Mortuary et al.

The judgment is affirmed. Dossee, J.* We concur: Stein, Acting P.J., Swager, J. *Retired Associate Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Certified for Publication.)

A078154 -- Susan Hauck et al. v. John Cady, Charles F. Hansen, Sr. et al.

The judgment is reversed in part and the matter is remanded for further proceedings regarding title to the lane. In all other respects the judgment is affirmed. The parties shall bear their own costs on appeal. Dossee, J.* We concur: Stein, Acting P.J., Swager, J. *Retired Associate Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

Friday, June 5, 1998 (continued)

A078555 -- The People v. Jason Lee Hain.

The sentence for the great bodily injury enhancement as to count one is hereby stayed, and the abstract of judgment shall be modified accordingly. In all other respects, the judgment is affirmed. Dossee, J.* We concur: Stein, Acting P.J., Swager, J. *Retired Associate Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to the article VI, section 6 of the California Constitution. (Not for Publication.)

A080129 -- Kevin Karloske v. Fritz Barthelmes Sportwaffenfabrik GmbH et al.

The judgment is affirmed. Dossee, J.* We concur: Strankman, P.J., Swager, J. *Retired Associate Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

A080290 -- Abraham Alonzo v. William Weigand et al.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A080374 -- Contra Costa County v. Joe Brown.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

DIVISION TWO

A076288 -- Carol A. Meehan v. Ann M. Feola.

A076377 -- Mara Ribbin v. Ann M. Feola.

For the foregoing reasons, the judgment is affirmed. Respondents are awarded costs on appeal. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

Friday, June 5, 1998 (continued)

A078754 -- United States Fidelity & Guaranty Company v. S. Kimberly Belshe, Director of the Department of Health Services.

A078996 -- S. Kimberly Belshe, Director of the Department of Health Services v. United States Fidelity & Guaranty Company.

The judgment in *Fidelity v. Belshe* (A078754) is affirmed. The judgment in *Belshe v. Fidelity* (A078996) is reversed. Costs to the Department. Kline, P.J. We concur: Haerle, J., Lambden, J. (Certified for Publication.)

DIVISION THREE

A076394 -- The People v. Larry John Pedersen.

By The Court: The petition for rehearing is denied. Phelan, P.J.

A077049 -- San Mateo Community College District v. Half Moon Bay Limited Partnership et al.

We affirm the trial court's judgment in favor of the San Mateo County Community College District, including the award of attorney fees and costs against Kucera and La Honda Fields Limited Partnership. Respondent is awarded its costs on appeal. Phelan, P.J. We concur: Corrigan, J., Walker, J. (Not for Publication.)

A078185 -- The People v. Larry Allen Burton.

A081945 -- In re Larry Allen Burton.

The judgment is affirmed, and the habeas corpus petition is denied. Parrilli, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

A078995 -- Anne H. Pahland et al v. Reed J. Kaplan et al.

The appeal is dismissed. Costs to respondent. Parrilli, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

Friday, June 5, 1998 (continued)

DIVISION FOUR

A068802 -- The People v. Joshua Harvest.

Defendant's conviction of first degree murder for the killing of Joel Vigil is affirmed. His conviction of second degree murder for the killing of Michael Gialouris is reversed as is the multiple murder special circumstance finding. Poché, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A080345 -- The People v. John David Buck.

The Court: The "modified order of probation" is affirmed. Hanlon, P.J., Poché, J., & McGuiness, J. (Not for Publication.)

DIVISION FIVE

A078446 -- The People v. Kirk David Stewart.

The judgment of conviction is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

A079481 -- The People v. Billy Joe Lawrence.

The order and sentence of the trial court are affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

A079645 -- In re Timothy A., a Person Coming Under the Juvenile Court Law.

The finding that appellant violated section 667.9 is reversed, and the dispositional order is reversed. The finding that appellant violated section 211 was not challenged on appeal, and is therefore affirmed. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

Friday, June 5, 1998 (continued)

A081080 -- James L. Warren v. San Francisco Superior Court, Thomas W. Taylor, R.P.I.

By The Court: Let a peremptory writ of mandate issue commanding respondent superior court to vacate its order disqualifying Judge Warren.

Judge Warren shall recover his costs. Peterson, P.J., Haning, J. and Jones, J. (Certified for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, June 8, 1998

DIVISION TWO

A074676 -- North Oakland Medical Clinic et al. v. James M. Rogers et al.

The order of April 9, 1996, is affirmed. Respondents are awarded their costs on appeal. Kline, P.J. We concur: Haerle, J., Ruvolo, J. (Certified for Publication.)

A079271 -- Karen Gatton, etc., et al. v. A.P. Green Services, Inc.

The judgment is affirmed. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. Certified for Publication.

DIVISION THREE

**A076343 -- Gregory Stephen Agresta et al. v. Shell Oil Company et al.
Carlos A. Aguilar et al. v. Shell Oil Company et al.**

To the extent any plaintiff alleged personal injury, the judgment dismissing those causes of action is reversed, with the exception of the causes of action for strict liability arising from ultrahazardous activity. To the extent nontrial plaintiffs alleged property damage, the judgment dismissing their claims is reversed, with the exception of the cause of action for strict liability arising from ultrahazardous activity. To the extent trial plaintiffs alleged property damage, the judgment is affirmed. Judgment against all plaintiffs on the cause of action for strict liability arising from ultrahazardous activity is affirmed. The matter is remanded for

Monday, June 8, 1998 (continued)

further proceedings consistent with this opinion and the trial management plan. Each party is to bear its own costs on appeal. Corrigan, Acting P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

DIVISION FIVE

A081100 -- Elizabeth Kennedy v. Marin County Superior Court, Lucky Stores, Inc., R.P.I.

Let a peremptory writ of mandate issue commanding respondent superior court to vacate its order denying the motion to compel, and to enter a new and different order granting the motion. Petitioner shall recover her costs of this writ proceeding. Haning, J. We concur: Peterson, P.J., Jones, J. (Certified for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, June 9, 1998

DIVISION ONE

**IN THE MATTER OF THE ASSIGNMENT OF THE HONORABLE
ROBERT L. DOSSEE TO SIT AS A JUSTICE OF THIS COURT.**

By The Court: It is ordered that the assignment of the Honorable Robert L. Dossee, Retired Justice of the Court of Appeal, First Appellate District, Division One, to assist the Court of Appeal, First Appellate District, Division One, from June 1, 1998 to June 30, 1998 be spread upon the minutes in full. Strankman, P.J.

**A079439 -- Alfred J. Abrahamsen v. San Francisco Unified School
District.**

The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

DIVISION TWO

A079582 -- RTC Mortgage Trust v. Robert G. Burlingame.

The preliminary injunction is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A079763 -- County of Santa Cruz v. California State Board of Forestry
et al.**

The judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Certified for Publication.)

Tuesday, June 9, 1998 (continued)

DIVISION THREE

A079599 -- The People v. Samuel S. Washington.

The judgment is affirmed. Parrilli, J. We concur: Corrigan, Actg. P.J., Walker, J. (Not for Publication.)

DIVISION FIVE

A080011 -- Craig Battuello v. Ellen Battuello et al.

The judgment is reversed. Peterson, P.J. We concur: Haning, J., Jones, J. (Certified for Partial Publication.)

A082554 -- Elizabeth W. v. Lake County Superior Court, Lake County Department of Social Services, R.P.I. By The Court: The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888.) Petitioner is barred in any subsequent appeal from making further challenges to the order terminating reunification services and setting a hearing under section 366.26. (See subd. (I).) Since the section 366.26 hearing is set for June 29, 1998, this opinion is final as to this court forthwith. (See rule 24(d).) Peterson, P.J., Haning, J. and Jones, J. (Not for Publication.)

Courtroom Minutes
Division 4
Tuesday June 9, 1998

Court convened at 9:30 a.m. in its courtroom at 303-2nd Street, 4th Floor, San Francisco. Present: Hanlon, P.J., Poche, J., Reardon, J., Jim Campbell, Deputy Clerk and CHP Officer J. Espinosa, Bailiff.

A078715 People
 plaintiff/respondent,
 v.
 Jonathan Wolfe Arnold, et al.,
 defendants/appellants.

Cause called. Kathryn Seligman argued on behalf of appellant, Jonathan Wolfe Arnold. Martin Kaye, D.A.G., argued on behalf of respondent. Cause submitted.

At this point the court reconstituted itself to include: Hanlon, P.J., Poche, J. and McGuinness, J.

A076538 People,
 plaintiff/respondent,
 v.
 Raymond Fisher,
 defendant/appellant.

Cause called. Mark Fogelman argued on behalf of appellant, Raymond Fisher. Rene Chacon, D.A.G., argued on behalf of respondent. Cause submitted.

The Court adjourned at 10:40 a.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, June 10, 1998

DIVISION TWO

**A075456/A078523 -- Rosalba Cortez v. Purolator Air Filtration
Products Co.**

The judgment is affirmed in part, and reversed in part. We reverse the denial of restitution under the Unfair Business Practice Act, and remand for the trial court to determine the amount of restitution. We otherwise affirm the judgment. Plaintiff is awarded her costs on appeal. Lambden, J. I concur: Ruvolo, J. See Concurring Opinion of Haerle, J. (Certified for Publication.)

**A082721 -- Darrell Hunter v. The Superior Court of Marin County,
The People of the State of California, R.P.I.**

By The Court: The petition for writ of prohibition/stay is denied. Haerle, Acting P.J.

DIVISION THREE

A077757 -- The People v. Andre Lamont Ray.

The judgment is reversed. Corrigan, J. We concur: Phelan, P.J., Parrilli, J. (Certified for Publication.)

A079045 -- The People v. Rodney Anthony Wright.

The judgment is affirmed. Parrilli, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

Wednesday, June 10, 1998 (continued)

A080292 -- In re Jamal D., a Person Coming Under the Juvenile Court Law.

The jurisdictional and dispositional orders are affirmed. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

DIVISION FOUR

A075269 -- Harlan Richardson v. Patricia Whitney et al.

The Order in Support of Judgment is affirmed. Poché, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A076713 -- Stephen M. Morey et al. v. Neilo Vannucci et al.

Bay Cities Building Materials Co., Inc. v. Stephen M.

Morey et al.

The judgment is affirmed. Appellants shall pay respondents' costs on appeal. McGuinness, J. We concur: Poché, Acting P.J., Reardon, J. (Certified for Publication.)

A079110 -- The People v. Jose Samorano.

The judgment is affirmed. McGuinness, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A079552 -- A. P. Agarwal v. City of Oakland.

The order setting aside the default judgment is affirmed. The parties are to bear their own costs on this appeal. Hanlon, P.J. We concur: Poché, J., Reardon, J. (Not for Publication.)

A081169 -- The People v. Donald Eric Nunn.

The judgment is affirmed. Reardon, J. We concur: Hanlon, P.J., McGuinness, J. (Not for Publication.)

Wednesday, June 10, 1998 (continued)

DIVISION FIVE

A080173/A080286 -- John Walter Simpson et al. v. County of Solano and State of California.

The judgments of dismissal are affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, June 11, 1998

DIVISION ONE

**A073451 and A078149 -- Information Systems and Networks
Corporation v. Securacom, Inc., et al.**

The judgment entered upon the jury verdict in favor of Securacom (A078149) is affirmed. The appeal from the summary judgment in favor of respondent Burns and Roe (A073451) is dismissed as moot. Costs in the two appeals are awarded to respondents. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

**A079464 -- In re Christopher K., a Person Coming Under the Juvenile
Court Law.**

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

A079732 -- Transdata International, Inc. v. Craig M. Hunt.

Hunt has not established any error in the trial court's denial of his motion for attorney fees. The order is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A080549 -- Sylvia Kay Bakke v. Del Reka Corporation.

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

Thursday, June 11, 1998 (continued)

DIVISION TWO

A077899 -- The People v. Aaron Ray Scott.

The judgment of conviction is affirmed. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

DIVISION THREE

A077983 -- The People v. Hulen T. Harrell.

The judgment is affirmed. Corrigan, Acting P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

A078664 -- Johanna Hoyt v. Walter Strauss.

We affirm the judgment entered on the order granting summary judgment in favor of respondent Dr. Walter Strauss. Respondent is awarded costs on appeal. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A080103 -- The People v. Daniel Herrera Chavez.

We conclude there are no arguable issues which should be briefed. The judgment is affirmed. Phelan, P.J. We concur: Corrigan, J., Walker, J. (Not for Publication.)

A080962 -- The People v. Frank Hentrel.

The judgment is affirmed. Phelan, P.J. We concur: Corrigan, J., Parrilli, J.

A081803 -- The People v. Omar Ordonez Espinoza.

The judgment is affirmed. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Thursday, June 11, 1998 (continued)

**A082299 -- Richard C., v. The Superior Court of Sonoma County,
Sonoma County Department of Human Services, R.P.I.**

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.)

The section 366.26 hearing is set for June 17, 1998. Therefore, our decision is final in this court immediately. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

DIVISION FOUR

**A079208 -- Leona Williams v. Verle A. Anderson et al., as Beneficiaries,
etc.**

The purported appeal is dismissed. The cross-appeal is dismissed as moot. Reardon, J. We concur: Hanlon, P.J., McGuinness, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, June 12, 1998

DIVISION ONE

A078376 -- The People v. Richard Eugene Kirkpatrick.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A078898 -- The People v. Antonio Valdez Sanchez.

The order and judgment are affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A079203 -- The People v. Christopher Lee Richie.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

DIVISION THREE

A078496 -- Colneler T. Cooper, et al. v. Safeway, Inc., et al.

By The Court: The petition for rehearing and the request for publication are denied. Phelan, P.J.

A079936 -- The People v. Myron Tukes.

There being no constitutional defect in the reasonable doubt instruction, the judgment is affirmed. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

Friday, June 12, 1998 (continued)

A080196 -- The People v. Edwin E. McNeal.

There being no constitutional defect in the reasonable doubt instruction, the judgment is affirmed. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

DIVISION FOUR

A074847 -- The People v. Maria Elena-Palaad Luna et al.

The carjacking convictions are reversed and vacated. The trial court is directed to enter a dismissal of those charges and amend the abstract of judgment accordingly. In all other respects, the judgment is affirmed. Reardon, J. We concur: Hanlon, P.J., McGuinness, J. (Not for Publication.)

DIVISION FIVE

A079488 -- In re Wendy L., a Person Coming Under the Juvenile Court Law.

The order is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

Friday, June 12, 1998 (continued)

A082693 -- Loretta W. v. The Superior Court of San Francisco County, San Francisco Department of Human Services, R.P.I.

A082872 -- Andre W. v. the Superior Court of San Francisco County, San Francisco Department of Human Services, R.P.I.

By The Court: The petitions for extraordinary relief and the requests for stay are denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888.) Petitioners are barred in any subsequent appeal from making further challenges to the order terminating reunification services and setting a hearing under Welfare and Institutions Code section 366.26. (Welf. & Inst. Code, § 366.26, subd. (I).) Since the section 366.26 hearing is set for June 17, 1998, this opinion is final as to this court forthwith. (See Cal. Rules of Court, rule 24(d).) Peterson, P.J., Haning, J., and Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, June 15, 1998

DIVISION TWO

A077088/A077552 -- Sandra J. Sloan et al. v. John Crane, Inc.

The judgment is affirmed. The request for sanctions is granted in part and Sloan is awarded \$5,500 to be paid by Crane's counsel. Costs of appeal are awarded to Sloan. Ruvolo, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

A078371 -- The People v. Michael Stanley.

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A082767 -- 250 Post Street Limited, et al. v. The Superior Court of San Francisco County, Harold Hoogasian, et al., R.P.I.

By The Court: The petition for writ of mandate is denied. Petitioners have a remedy at law by way of the trial court hearing set for July 20, 1998. Haerle, Acting P.J.

A082979 -- Frederick Stills Jr. v. The Superior Court of San Mateo County, The People of the State of California, R.P.I.

By The Court: The petition for writ of mandate is denied. Haerle, Acting P.J.

A082991 -- In re Juan Oswaldo Esparza, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

Monday, June 15, 1998 (continued)

DIVISION THREE

A076991 -- James McIntosh et al. v. Charles Butler et al.

The judgment is reversed on the points raised by the Butlers in this appeal. The trial court is directed to modify the judgment to incorporate the Butler/McIntosh boundary established in the prior water rights litigation, with appropriate adjustments to eliminate gaps or overlaps with other boundaries. The judgment must also restrict the parties' use of the reservoir surface to the waters lying over their property. The Butlers shall recover their costs on appeal. Parrilli, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

A076991 -- James McIntosh et al. v. Charles Butler et al.

By The Court: The appeal is dismissed as between the appellants Butler and the respondents Jacobs pursuant to the one final judgment rule. (*Morehart v. County of Santa Barbara* (1994) 7 Cal.4th 725, 743.) The judgment is not appealable as a collateral order. (See *Marsh v. Mountain Zephyr, Inc.* (1996) 43 Cal.App.4th 289, 295-296.) The parties have shown unusual circumstances in this case flowing from Judge Knight's retirement and the rule that the same judge must hear and decide all issues. (*European Beverage, Inc. v. Superior Court* (1996) 43 Cal.App.4th 1211, 1214.) However, we are not persuaded these circumstances justify treatment of the appeal as a writ petition. (See *Morehart v. County of Santa Barbara, supra*, 7 Cal. 4th at pp. 744-747.)

This dismissal has no impact on the appeal between the Butlers and the McIntosh respondents. (*Stonewall Ins. Co. v. City of Palos Verdes Estates* (1996) 46 Cal.App.4th 1810, 1830.) Phelan, P.J. (Not for Publication.)

DIVISION FOUR

A078715 -- The People v. Jonathan Wolfe Arnold et al.

The orders of probation are reversed. Poché, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

Monday, June 15, 1998 (continued)

DIVISION FIVE

A079452 -- The People v. Gary A. Dodson.

Except as to the finding that appellant is a danger to himself, the order is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, June 16, 1998

DIVISION ONE

A077691 -- The People v. Michael L. Ferguson.

The judgment is affirmed. Dossee, J.* We concur: Stein, Acting P.J., Swager, J. *Retired Associate Justice of the Court of Appeal, first District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

A079573 -- The People v. Freddie Lee Jordan, Jr.

The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

DIVISION TWO

A078054 -- The People v. Tammie Marie Casares.

The judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A078517 -- Albert L. Russ et al. v. George K. Perkins et al.

The trial court's judgment granting the motion to tax costs is affirmed and, respondents are to receive costs on appeal. Respondents' request for attorneys fees on appeal is denied. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

Tuesday, June 16, 1998 (continued)

A079598 -- The People v. Raul Madrigal Ramirez.

The judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A080474 -- Lee R. Stafford, et al. v. Toan Mach, Allstate Insurance Company.

The trial court's order granting Allstate's motions to intervene and to set aside the default judgment against Mach is reversed. The cause is remanded to the trial court for further proceedings consistent with this decision. Haerle, J. We concur: Kline, P.J., Lambden, J. (Certified for Publication.)

DIVISION THREE

A078430 -- The People v. Dimitria Vonshay Armstrong.

The judgment is reversed. The matter is remanded for resentencing in accordance with this opinion. Corrigan, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION THREE

Tuesday, June 16, 1998

Court convened at 1:30 p.m. in its Courtroom at 303 Second Street, South Tower,
Fourth Floor, San Francisco, California.

Present: Phelan P.J., Parrilli J., Walker, J., and J. Casados, Deputy Clerk.

Justice Phelan announced that Justice Corrigan would not be present
at oral argument. There was no objection from counsel to have two
justices at oral argument and Justice Corrigan listening to the audio
tape.

A078083 The People,
v.

Michael Antoine Wortham.

Cause called and argued by Victoria H. Stafford, counsel for
appellant, and by Linda Murphy, Deputy Attorney General, counsel
for respondent. Cause ordered submitted.

A076754 L. Damian,
v.

Romana D. Tamondong.

Cause called and argued by Andrew Ogilvie, counsel for appellant,
and by Kathy Banke, counsel for respondent. Cause ordered
submitted.

Court adjourned.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, June 17, 1998

DIVISION ONE

A075518 -- Alpha Epsilon Phi v. City of Berkeley Rent Stabilization Board.

A078932 -- Alpha epsilon Phi v. City of Berkeley Rent Stabilization Board.

The judgment in A078932 is affirmed. The judgment in A075518 is reversed in part, and the matter is remanded for further proceedings on AEP's complaint. Each party shall bear its own costs. Dossee, J.* We concur: Strankman, P.J., Swager, J. *Retired Associate Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

DIVISION TWO

A077372 -- In re Deandre I., a Person Coming Under the Juvenile Court Law.

The judgment of the trial court is affirmed. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A080497 -- Kay Parra v. Lisa Hensel.

The judgment is affirmed. Costs on appeal are awarded to Parra. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

Wednesday, June 17, 1998 (continued)

DIVISION THREE

A079688 -- The People v. Alan An Luu.

We have reviewed the entire record on appeal and have discovered no arguably meritorious issues. Consequently, the judgment is affirmed. Parrilli, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

A082135 -- John Barnes et al. v. Mellon Mortgage Company et al.

The appeal is dismissed. Corrigan, Acting P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

DIVISION FIVE

A077091 -- Tarkington, O'Connor & O'Neill v. Fireman's Fund Insurance Company.

We reverse the jury verdict with respect to the award of damages. We remand this action for a new trial on the amount of damages caused by the defamation only. In all other respects we affirm the judgment. Parties to bear their own costs on appeal. Jones, J. I concur: Haning, J. See Concurring and Dissenting Opinion of Peterson, P.J. (Not for Publication.)

A080602 -- In re the Matter of Allen T., Jr., a Minor.

The orders of the juvenile court are affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Wednesday, June 17, 1998

The Court met at 9:30 a.m. in its courtroom at 303 - Second Street, 4th Floor, San Francisco. Present: Haerle, Acting P.J., Lambden, J., Ruvolo, J. and S. Graham, Deputy Clerk.

- A079788 The People
 v.
 Antonio Maldonado Rivera and
 Angel Cuevas
 Cause called and argued by Jeff Rubin, Deputy District Attorney, counsel
 for appellant and William Locke, counsel for respondents. Cause ordered
 submitted.
- A080263 Everett Moore, et al.
 v.
 Commission on Central Marin Sanitation Agency, et al.
 Cause called and argued by Terence Redmond, counsel for appellant and
 Gregory Rockwell, counsel for respondent. Cause ordered submitted.
- A077436 The People
 v.
 Latroy Demos Ervin
 Cause called and argued telephonically by Diane Berley, counsel for
 appellant and Richard Rochman, Deputy Attorney General, counsel for
 respondent. Cause ordered submitted.

At this point in the proceedings, Justice Ruvolo left the bench and Presiding Justice Kline joined the bench.

A078909 The People
 v.
 Desiree M., a Minor

A081182 In re Desiree M., on Habeas Corpus
 Causes called and argued by Ande Thomas, counsel for appellant and
 telephonically by Ken Young, Deputy Attorney General, counsel for
 respondent. Cause ordered submitted.

 Court recessed until 1:30 p.m.

 Court reconvened at 1:30 p.m. Present: Kline, P. J., Haerle, J.,
 Lambden, J., and S. Graham, Deputy Clerk.

A076812 The People
 v.
 Geovani Francisco Olano
 Cause called and argued by Janice Lagerlof, counsel for appellant and
 Catherine Rivlin, Deputy Attorney General, counsel for respondent. Cause
 ordered submitted.

A078785 The People
 v.
 Artie Irikki Adanandus
 Cause called and argued by Alex Green, counsel for appellant and Monique
 Ho, Certified Law Student with Seth Schalit, Deputy Attorney General,
 counsel for respondent. Cause ordered submitted.

A076003 Som Gupta, et al.
 v.
 North American Specialty Insurance Company, et al.
 Cause called and argued by Judith Johnson, counsel for appellants and
 Mark Bonino, counsel or respondents. Cause ordered submitted.

A063878 Benjamin Santisas, et al.

v.

Kelly Husbands, et al.

Cause called and argued by Gilbert T. Graham, counsel for appellants and Robert J. Stumpf, counsel for respondents. Submission deferred.

Appellant granted 20 days in which to file a supplemental letter brief no longer than 4 pages; respondent granted 20 days thereafter in which to file a responding letter brief of 4 pages; Appellant granted 10 days thereafter to file a reply letter no longer than 2 pages. Case will be deemed submitted upon the filing of the reply.

A080435

In re the Marriage of Judith and Vincent Lechowick
Judith Lechowick

v.

Vincent Lechowick

Mark Heimann

Cause called and argued by Mark Heimann, appellant in propria persona and Vincent Lechowick, respondent in propria persona. Cause ordered submitted.

Court recessed until Thursday, June 18, 1998 at 9:30 a.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, June 18, 1998

DIVISION ONE

A078546 -- In re the Marriage of Larry and Valarie Klingenberg.

The orders modifying child support obligations filed March 12, 1997, and May 28, 1997, are reversed and the case remanded for further considerations consistent with this opinion.

Costs are awarded to appellant. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

DIVISION TWO

A074676 -- North Oakland Medical Clinic et al. v. James M. Rogers et al.

By The Court: The written opinion filed June 8, 1998, is modified in the following respect: (See modification.) This modification does not effect a change in the judgment. Kline, P. J.

A078696 -- In re the Marriage of Annie Jacob and Santiago Z. Arrieta.

Arrieta asserts that this appeal is frivolous within the meaning of Code of Civil Procedure section 907, and requests monetary and terminating sanctions. Since we are reversing the lower court and conclude that the appeal has merit, we deny his request for sanctions.

We reverse the judgment with respect to the awarding to Arrieta spousal support, a one-half interest in the Paine Webber account, and an interest in the El Camino property. Jacob is awarded costs on appeal. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Thursday, June 18, 1998 (continued)

A083004 -- Gloria Phillips v. The Superior Court of San Francisco County, Rite Aid Corporation, et al., R.P.I.

By The Court: The petition for writ of mandate/prohibition is denied. Haerle, Acting P.J.

A083042 -- Stephen Czapla v. The Superior Court of San Francisco County, the People of the State of California, R.P.I.

By The Court: The petition for writ of mandate/stay is denied. Haerle, Acting P.J.

A083043 -- Marcella Cuevas v. The Superior Court of Alameda County, The People of the State of California, R.P.I.

By The Court: The petition for writ of mandate is denied without prejudice. Petitioner should seek relief by filing a noticed motion before Judge Goodman in Alameda County Superior Court who took the original plea. Haerle, J., Acting P.J.

A083050 -- In re Monica Miller Rosas, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

DIVISION THREE

A078559 & A078590 -- Gregg Hackett et al. v. Scott Swanson et al.

By The Court: Appellants' petition for rehearing is granted. Respondents may file a responsive brief on the question of waiver, within 15 calendar days of the date of this order. Appellants may file a reply brief on that question within five calendar days of the filing of respondents' brief, if any. Phelan, P.J.

Thursday, June 18, 1998 (continued)

A080528 -- Jaime Pena v. Manuel A. Faria.

The appellate department's order remanding the case to the municipal court is reversed, and the municipal court's original judgment is reinstated. Costs to Faria. Parrilli, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Thursday, June 18, 1998

The Court met at 9:30 a.m. in its courtroom at 303 - Second Street, 4th Floor, San Francisco. Present: Kline, P. J., Haerle, J., Ruvolo, J., and I Santos, Deputy Clerk.

A081229 The Latino Coalition for a Healthy California,
 v.
 Kimberly Belshe et al.
Cause called and argued by John Affeldt, counsel for appellant, and Asher Rubin, counsel for respondent. Cause ordered submitted.

At this point Justice Haerle left the bench and Justice Lambden joined the bench for the remainder of the calendar.

A079326 The People,
 v.
 Joseph Keith Allison.
Cause called and argued by Alan Siraco, counsel for appellant, and Deputy Attorney General, Lisa Ashley, counsel for respondent. Cause ordered submitted.

A077945 Henry Curry,
 v.
 San Francisco Newspaper Agency.
Cause called and argued by Henry Curry, in pro per, and Ann O'Regan, counsel for respondent. Submission deferred. Appellant granted 5 days to file a copy of the order granting motion for award of attorneys' fees. Case will be deemed submitted upon the filing of the order.

A080459 P & K Trucking,
 v.
 Steve Navarro et al.
Cause called and argued by John Boone, counsel for appellant, and William Holsinger, counsel for respondent. Cause ordered submitted.

A075584 Jevene Newman et al.,
v.
Hollingsworth & Vose Company et al.
Cause called and argued by Frederick Baker and Andrew McElaney,
counsels for appellants, and Ted Pelletier, counsel for respondent. Cause
ordered submitted.

COURT ADJOURNED.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, June 19, 1998

DIVISION TWO

A080577 -- The People v. Joseph Branner.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Lambden, J.
(Not for Publication.)

A080648 -- The People v. Chad Jeffrey Eldridge.

The judgment is affirmed. Haerle, J. We concur: Lambden, J., Ruvolo, J.
(Not for Publication.)

**A081517 -- In re Dwayne Edward J., a Person Coming Under the
Juvenile Court Law.**

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Haerle, J.
(Not for Publication.)

**A083085 -- Laura Caballero v. The Superior Court of Contra Costa
County, Rigoberto Caballero, R.P.I.**

By The Court: The petition for writ of certiorari/stay is denied. Haerle,
Acting P.J.

A083112 -- In re Muharem Kurbegovich, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Haerle,
Acting P.J.

Friday, June 19, 1998 (continued)

A083129 -- Levi Strauss & Co., et al. v. The Superior Court of San Francisco County, Nantucket Industries, Inc., R.P.I.

By The Court: The petition for writ of mandate/stay is denied. Haerle, Acting P.J.

DIVISION THREE

A076969 -- Jacoby Creek Protection Association v. California Department of Forestry, Barnum Timber Company, R.P.I.

For all the foregoing reasons, the judgment of the trial court is affirmed. Costs to respondents. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A078372 -- The People v. Jaime Ponce, II.

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, June 22, 1998

DIVISION ONE

A079631 -- Information Systems and Networks Corporation v. Securacom, Inc.

The order denying appellant's motion for an award of attorney fees and costs is reversed as to the first cause of action for breach of third party beneficiary contract, but in all other respects is affirmed. The case is remanded to the trial court for proceedings consistent with the views expressed herein. The parties are to bear their own costs on appeal. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A080101 -- The People v. Paul Kevin Brewer.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

DIVISION TWO

A078976 -- Mary B. Smith et al. v. Cleary Consultants, Inc.

The post-judgment order denying Cleary's motion for attorney's fees is affirmed. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

Monday, June 22, 1998 (continued)

A082704 -- Jacqueline Hughes v. The Superior Court of Alameda County, Contractors Wire & Cable, et al., R.P.I.

By The Court: Let a peremptory writ of mandate issue commanding respondent superior court to modify its discovery order of March 18, 1998, so as to allow discovery of the names and last known addresses of those persons employed at defendant's Hayward facility from November 7, 1993, to the present. Hughes shall recover her costs in this proceeding. Before Haerle, Acting P.J.; Lambden, J.; Ruvolo, J.

DIVISION THREE

A077287 -- The People v. Herbert Moore.

The abstract is ordered modified to reflect a stayed sentence on count 5, with the stay to become permanent upon completion of the sentences served on counts 1 and 2. In all other respects the judgment is affirmed. Walker, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

A077298 -- The People v. Ethan Edward Locks.

The judgment is affirmed. Parrilli, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

A077697 -- In re Jacinda S., a Person Coming Under the Juvenile Court Law.

The juvenile court's orders are affirmed. Parrilli, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

Monday, June 22, 1998 (continued)

A078525 -- Ronald Epman, as Successor, etc. v. Occidental Chemical Corporation.

A078865 -- James Mortenson et al. v. Occidental Chemical Corporation.

Affirmed. Respondent to recover costs on appeal. Walker, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

DIVISION FOUR

A075184 -- The People v. Matthew Forrey Holgerson.

Order Modifying Opinion and Denying Rehearing; By The Court: The opinion filed May 21, 1998, in the above-entitled matter is modified as follows: (See Order) This modification does not effect a change in the judgment. Appellant's petition for rehearing is denied. Hanlon, P.J. (Not for Publication.)

A077748 -- The People v. Jovan Sfarsai Farsight.

The trial court correctly excluded the proffered evidence and therefore we affirm the convictions but strike the restitution fine of \$200. The court ordered appellant to pay restitution to Lexus of Serramonte in the amount of \$88,800 and also to pay a restitution fine of \$200 pursuant to Penal Code section 1202.4. Appellant was entitled to a credit for the restitution he was ordered to pay to Lexus of Serramonte. Since the \$88,800 more than covers the \$200 fine, the fine is stricken. (*People v. Forshay* (1995) 39 Cal.App.4th 686, 690; *People v. Cotter* (1992) 6 Cal.App.4th 1671, 1677.) Reardon, J. We concur: Hanlon, P.J., Poché, J. (Certified for Publication.)

Monday, June 22, 1998 (continued)

A078201 -- Christina M. Sagonowsky et al v. Antonia L. More.

A078305 -- Stefan Mrozowski v. Antonia L. More.

Order Modifying Opinion and Denying Rehearing; The Court: It is ordered that the opinion filed herein on May 22, 1998, be modified in the following particular: (See Order) This modification does not effect a change in the judgment. The petition for rehearing of appellant Mrozowski and the petition for rehearing of appellants Sagonowsky and Kekoa are hereby denied. Hanlon, P.J. (Certified for Publication.)

DIVISION FIVE

A081708 -- Marvin Brookner, as Public Defender, etc. v. Solano County Superior Court, The People, Bruce Alan Robinson, R.P.I.

The superior court's appointment of petitioner to serve as standby and advisory counsel to real party Robinson was proper. Accordingly, the petition for writ of mandate is denied. The stay heretofore imposed is dissolved. Peterson, P.J. I concur: Haning, J. See Concurring and Dissenting Opinion of Jones, J. (Certified for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, June 23, 1998

DIVISION ONE

A082447 -- In re Shai P. and Twiniqueka S., Persons Coming Under the Juvenile Court Law.

Our review of the entire record, which we have summarized above, reveals that the orders which petitioner challenges are supported by substantial evidence. (*James B. v. Superior Court* (1995) 35 Cal.App.4th 1014, 1021.) The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.)

The section 366.26 hearing is set for July 27, 1998. Therefore, our decision is final in this court immediately. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

DIVISION TWO

A079010 -- The People v. Charles Johnson.

The judgment of the trial court is vacated and the matter remanded to that court for proceedings not inconsistent with the views expressed above and in the opinion of our Supreme Court in *Williams* (17 Cal.4th, 148, at pp. 164-165). Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A083143 -- In re Thomas Allen Porter, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

Tuesday, June 23, 1998 (continued)

DIVISION THREE

A076401 -- Leo R. Norgart, et al. v. The Upjohn Company.

By The Court: The petition for rehearing is denied. Phelan, P.J.

DIVISION FIVE

A078436 -- The People v. Derick Anthony Williams.

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J.
(Not for Publication.)

A079841 -- In re the Matter of Reuel D., a Minor.

The order of the juvenile court is affirmed. Peterson, P.J., We concur:
Haning, J., Jones, J. (Not for Publication.)

A079954 -- In re Kari D., a Person Coming Under the Juvenile Court Law.

The no-contact condition is ordered stricken and the matter remanded for further proceedings consistent with this opinion. Our remand is not meant as an indication of our view of how the court should rule. The order is otherwise affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

A080294 -- In re Ronald J., a Person Coming Under the Juvenile Court Law.

The trial court's judgment is reversed to the extent it is based on a finding that appellant violated section 136.1, subdivision (c)(1), and the matter remanded for a new dispositional hearing. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

Tuesday, June 23, 1998 (continued)

A081316 -- ML Media Partners v. The Superior Court of Sonoma County, Karl Siedentopf et al., R.P.I.

Let a peremptory writ of mandate issue commanding respondent superior court to vacate its order denying petitioner's motion for summary judgment, and to enter a new and different order granting that motion. Petitioner shall recover its costs o f this writ proceeding. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, June 24, 1998

DIVISION ONE

A080716 -- In re Jasmine M., a Person Coming Under the Juvenile Court Law.

The order placing the minor on probation is affirmed. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A080888 -- The People v. Matthew Cory Fuller.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A082549 -- In re Daniel C., A Person Coming Under the Juvenile Court Law.

The challenged orders are supported by substantial evidence. (*James B. v. Superior Court* (1995) 35 Cal.App.4th 1014, 1021.) The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.)

The section 366.26 hearing is set for July 22, 1998. Therefore, our decision is final in this court immediately. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

Wednesday, June 24, 1998 (continued)

A082550 -- In re Daniel C., A Person Coming Under the Juvenile Court Law.

The challenged orders are supported by substantial evidence. (*James B. v. Superior Court* (1995) 35 Cal.App.4th 1014, 1021.) The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.)

The section 366.26 hearing is set for July 22, 1998. Therefore, our decision is final in this court immediately. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

Wednesday, June 24, 1998 (continued)

DIVISION TWO

A077075 -- Michael Singsen et al. v. Television Signal Corporation et al.

We affirm the judgment as to the dismissal of the breach of contract and breach of third party beneficiary claims. We reverse the dismissal as to the claim of a violation of section 17200. We vacate the denial of attorneys' fees. The parties are to pay their own costs on appeal. Lambden, J. I concur: Kline, P.J. See Concurring and Dissenting Opinion of Haerle, J. (Certified for Publication.)

A079382 -- In re Tony T., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

A080378 -- The People v. Roosevelt W. Gillette.

The judgment is affirmed. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A082485 -- In re Randall E. Ellis, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

A083033 -- Aeroground, Inc. v. The Superior Court of San Mateo County, AMJ Associates, et al., R.P.I.

By The Court: The petition for writ of mandate is denied. Petitioner has a remedy at law by way of appeal. Haerle, Acting P.J.

Wednesday, June 24, 1998 (continued)

DIVISION FOUR

A081363 -- In re Calvin W., a Person Coming Under the Juvenile Court Law.

The order adjudging appellant a ward of the court pursuant to Welfare and Institutions Code section 602 and placing him outside of the home of his mother is affirmed. McGuiness, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, June 25, 1998

DIVISION THREE

A078083 -- The People v. Michael Antoine Wortham.

The 25-year-to-life sentence for auto theft is ordered stayed, with the stay to become permanent upon the completion of the sentence for robbery. In all other respects, we affirm. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

DIVISION FOUR

A079662 -- Estate of Royal P. MacDonald, Deceased.

Susanne Collier Lakeman v. Theresa Lynch Tinker et al.

The order is reversed and the cause remanded to the probate court for entry of a new order consistent with this opinion. Appellants shall recover their costs of appeal. Poché, J. I concur: Hanlon, P.J. See Dissenting Opinion of Reardon, J. (Not for Publication.)

A079898 -- The People v. Erich Scott Weller.

The judgment is affirmed. McGuiness, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A080198 -- The People v. Willie Ray Jackson.

The orders appealed from are affirmed. McGuiness, J. We concur: Poché, Acting P.J., Reardon, J. (Not for Publication.)

Thursday, June 25, 1998 (continued)

DIVISION FIVE

A079715 -- The People v. Ronald Vincent Lugg.

The judgment is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J.
(Not for Publication.)

A081135 -- The People v. Keith Gregory Perry.

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J.
(Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Thursday, June 25, 1998

The Court met at 9:00 a.m. in its courtroom at 303 - 2nd Street, Fourth Floor, San Francisco. Present: Strankman, P.J., Stein, J., Swager, J. and N. Millner, Deputy Clerk.

- A077566 Sergeant Gregory Chinn,
v.
Chief Duane Lowe, et al.
Cause called and argued by Thomas J. Trachuk, counsel for appellant, and Jeffrey M. Phillips, Deputy Attorney General, counsel for respondents. Cause ordered submitted.
- A080623 In re Marriage of McCauley.
Arthur David McCauley,
v.
Mari McCauley.
Cause called and argued by Michael Willemsen, counsel for appellant, and Robert Cleek, counsel for respondents. Cause ordered submitted.
- A080283 Donald J. Ross, et al.,
v.
Lucky Stores, Inc.
Cause called and argued by Randall H. Stoner, counsel for appellants, and Sharon Hightower, counsel for respondent. Cause ordered submitted.
- A077511 The People,
v.
Nancy Christina Carvalho, et al.
Cause called and argued by Richard J. Krech, counsel for appellant Carvalho, Hilda Scheib, counsel for appellant MacArthur, and Burce Ortega, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A074010 The People,

v.

Robert James Brown, et al.

Cause called and argued by Walter Pyle, counsel for appellant Brown, Deanna Lamb, counsel for appellant Oliver, and Seth Schalit, Deputy Attorney General. Cause ordered submitted.

A082168 In re Tony Harvey on Habeas Corpus.

Cause called and argued by Candace Hale, counsel for petitioner, and Gregg Zywicke, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

COURT RECESSED UNTIL 2:00 P.M.

Court reconvened at 2:00 p.m. Present: Strankman, P.J., Stein, J., Swager, J. and B. Robbins, Deputy Clerk.

- A080464 Viesturs T. Petersons, et al.
v.
Larry D. Coate.
Cause called and argued by Larry D. Coate, in pro per, and James L. Kellner, counsel for respondents. Cause ordered submitted.
- A078780 In re Estate of Henry.
Giuseppe Battistini,
v.
Elizabeth Hansen
Cause called and argued by Rod S. Polentz, counsel for appellant, and Ronald J. Greenwood, counsel for respondent. Cause ordered submitted.
- A079767 Kit Larsen,
v.
Michael B. Wiest, et al.
Cause called and argued by Francis C. Stockum, counsel for appellant, and Ernest S. Pierucci, counsel for respondents. Cause ordered submitted.
- A080207 Homeacres Improvement Assn. of Solano Co.,
v.
Solano County.
Cause called and argued by Stuart Flashman, counsel for appellant, and James W. Laughlin, counsel for respondent. Cause ordered submitted.
- A080712 JMA Properties, Inc.,
v.
The Broe Companies, Inc.
Cause called and argued by Mark K. Slater, counsel for appellant, and Carrie M. McIntyre, counsel for respondent. Cause ordered submitted.

A078711 The People,

v.

John Otis Cleveland.

Cause called and argued by David Y. Stanley, via teleconference, and Ann K. Jensen, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, June 26, 1998

DIVISION ONE

A080390 -- The People v. Archie O. Anderson.

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

A081448 -- Mawson Computers, a California Partnership, et al. v. First Data Corporation, a Delaware Corporation, et al.

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

DIVISION THREE

A076991 -- James McIntosh et al. v. Charles Butler et al.

Order Modifying Order of the Court; By The Court: It is ordered that the Order of the Court filed herein on June 15, 1998, be modified in the following particular: (See Order) There is no change in the judgment. Phelan, P.J.

Friday, June 26, 1998 (continued)

A078275 -- Gary Fette v. Stereographics Corporation.

By The Court: By order dated January 27, 1998, this court directed appellant to move the Superior Court for an order entering final judgment as to all causes of action it had summarily adjudicated and, once that judgment was obtained, to file an amended notice of appeal from the judgment. We have been informed by the Superior Court that judgment was entered on March 16, 1998. Appellant having failed to file a notice of appeal from that judgment, this court is without jurisdiction to proceed. The appeal is dismissed. Phelan, P.J.

A079711 -- The People v. Dennis Malcolm Allison.

The trial court's order is affirmed. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

DIVISION FOUR

A082304 -- In re Ja'Voni W., a Person Coming Under the Juvenile Court Law.

The petition for an extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal. 3d 1012, 1024.)

The stay previously issued is dissolved. Our decision is final in this court immediately. Hanlon, P.J. We concur: Poché, J., McGuiness, J. (Not for Publication.)

Friday, June 26, 1998 (continued)

DIVISION FIVE

A081080 -- James L. Warren v. San Francisco Superior Court, Thomas W. Taylor, R.P.I.

Order Modifying Opinion and Denying Rehearing; It is ordered that the opinion filed herein on June 5, 1998, be modified in the following particulars: (See Order).

This modification does not affect the judgment.

The petition for rehearing is denied. Haning, Acting P.J. (Certified for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, June 29, 1998

DIVISION ONE

A079210 -- The People v. David E. McCollum.

The order suppressing evidence is reversed. Stein, J. We concur:
Strankman, P.J., Swager, J. (Not for Publication.)

DIVISION TWO

A076665 -- The People v. Halaliku Kaloni Tufunga.

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Haerle, J.
(Certified for Publication.)

A077495 -- David F. Dane v. Enterprise Rent-A-Car.

The judgments are affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J.
(Not for Publication.)

**A081545 -- In re Jennea Nicole N., a Person Coming Under the Juvenile
Court Law.**

There are no legal issues that require further briefing. The judgment is
affirmed. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

Monday, June 29, 1998 (continued)

A083147 -- David Moreno & Justin Pacheco v. The Superior Court of Solano County, The People of the State of California, R.P.I.

By The Court: The petition for writ of mandate/prohibition/stay is denied. Haerle, Acting P.J.

DIVISION THREE

A072405 -- The People v. Jose Avina.

The judgment is affirmed. Parrilli, J. We concur: Corrigan, Actg. P.J., Walker, J. (Not for Publication.)

A077287 -- The People v. Herbert Moore.

Order Modifying Opinion and Denying Rehearing; By The Court: It is ordered that the opinion filed June 22, 1998, is modified as follows: (See Order) This modification does not effect a change in the judgment. Appellant's petition for rehearing is denied. Phelan, P.J. (Not for Publication.)

A077491 -- Terry J. Young et al. v. Mary Coughlin.

For all the foregoing reasons, the order granting Coughlin's motion to vacate the sister state judgment is reversed, and the judgment entered pursuant to section 1710.25 is reinstated. Costs to appellants. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A077770 -- Jose Sisneros v. Timothy M. Finnegan, as Trustee, etc.

The judgment is affirmed. Parrilli, J. We concur: Corrigan, Actg. P.J., Walker, J. (Not for Publication.)

Monday, June 29, 1998 (continued)

A079339 -- The People v. Johnny Lee Moore.

The judgment is affirmed. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A079725 -- The People v. Harold Mintz Jones.

Affirmed. Walker, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

DIVISION FIVE

A072522 -- Patricia McColm v. City and County of San Francisco et al.

By The Court: The October 26, 1995, order denying motion to set aside void judgment is affirmed. The appeal from the April 5, 1995, judgment that is the subject of said motion is dismissed as untimely. Peterson, P.J., Haning, J. and Jones, J. (Not for Publication.)

A079602 -- The People v. Adrian Sepulveda.

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL STATE OF CALIFORNIA FIRST APPELLATE DISTRICT

DIVISION FIVE

Monday June 29, 1998

Court convened at 9:30 a.m. in its Courtroom at 303 Second Street, South Tower, Fourth Floor, San Francisco, California. Present: Peterson, P.J.; Haning, J.; Jones, J.; and Richard H. Sandvik, Deputy Clerk.

Prior to oral argument Justice Haning and Justice Jones commented on the retirement of Justice Peterson, those comments, as attached hereto, are to be spread upon the minutes in full.

- A080515 Pilkington Barnes Hind
 v.
 Superior Court of San Francisco County
 John J. Visbal
 Cause called and argued by M. Scott Donahey, counsel for petitioner, and
 by Robert DeVries counsel for real party in interest. Cause ordered
 submitted.
- A077047 Gary Tensfeldt
 v.
 Workers' Compensation Appeals Board and
 The City and County of San Francisco
 Cause called and argued by George Engler, counsel for petitioner, and by
 Aleet Van Runkle, counsel for real party in interest. Cause ordered
 submitted.
- A078483 Thaddeus Keiffer
 v.
 Bechtel Corporation
 Cause called and argued by Michael C. Hallerud, counsel for appellant,
 and by William C. Quackenbush, counsel for respondent. Cause ordered
 submitted.

- A079846 C.P.
v.
The City and County of San Francisco
Cause called and argued by Margaret W. Baumgartner, counsel for appellant, and by Guy B. Wallace, counsel for respondent. Cause ordered submitted.
- A080365 Santa Rosa City High School District
v.
Santa Rosa Teachers Association et al.
Cause called and argued by Scott N. Kivel, counsel for appellant, and by A. Eugene Huguenin, Jr., counsel for respondent. Cause ordered submitted.
- A078882 The People
v.
John Maddalone
Cause called and argued by Raymond A. Cardozo, Deputy Attorney General, counsel for respondent, counsel for appellant did not appear. Cause ordered submitted.
- A080516 In re Valsigna R. et al., minors
Solano County Social Services Agency
v.
Dennis R.
Cause called and argued by Mario Emmanuele De Solemni, counsel for appellant, and by Charles B. Wood, counsel for respondent. Cause ordered submitted.

Court adjourned at 12:18 p.m.

IN THE COURT OF APPEAL STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

Today is the final calendar of this Court on which Presiding Justice J. Clinton Peterson will sit prior to his retirement next month. Justice Peterson has served as Presiding Justice of this Division since September 1992 and, in addition, currently serves as Assistant Administrative Presiding Justice of the First District. He has not only contributed significantly to the administration of the court, but during his tenure in this Division has participated in over 3000 opinions, petitions and motions. He has been much more than a valued colleague -- he is also our good friend, and we will miss him. We wish him well in his retirement.

It is ordered that this farewell message be spread upon the minutes of this Court.

Haning, J.

Jones, J.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, June 30, 1998

DIVISION ONE

A080150 -- In re the Marriage of Inga and Bartholomew Lazzareschi.

Those portions of the judgment appealed from are reversed. (*In re Marriage of Varner, supra*, 55 Cal.App.4th at p. 144.) The parties are to bear their own costs on appeal. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

DIVISION TWO

A083205 -- Gregory Bogan v. The Superior Court of Alameda County, The People of the State of California, R.P.I.

By The Court: The petition for writ of mandate/prohibition is denied. Haerle, Acting P.J.

A083247 -- All West Container v. The Superior Court of San Mateo County, Jesus Vasquez, R.P.I.

By The Court: The petition for writ of mandate is denied without prejudice as premature in that no written order has been signed by the trial court in compliance with Code of Civil Procedure section 437c, subdivision (g). (See *Tera Pharmaceuticals, Inc. v. Superior Court* (1985) 170 Cal.App.3d 530, 532; *Continental Insurance Co. v. Superior Court* (1985) 165 Cal.App.3d 1069, 1071-1072; *Young v. Superior Court* (1986) 179 Cal.App.3d 28.) Haerle, Acting P.J.

Tuesday, June 30, 1998 (continued)

A083260 -- In re William S. Bruce, III, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

DIVISION FOUR

A074863 -- The People v. Stephen Ho.

The judgment is affirmed. Reardon, J. We concur: Hanlon, P.J., McGuinness, J. (Not for Publication.)

A076190 -- The People v. Jose Luis Contreras.

The judgment is affirmed. Reardon, J. We concur: Hanlon, P.J., McGuinness, J. (Not for Publication.)

A078562 -- The People v. Anthony Dwayne Collins.

The judgment, including the sentence, is affirmed. Reardon, J. We concur: Hanlon, P.J., McGuinness, J. (Not for Publication.)

A081843 -- The People v. Kirk Donald McCallum.

Judgment affirmed. Reardon, J. We concur: Poché, Acting P.J., McGuinness, J. (Not for Publication.)

DIVISION FIVE

A076528 -- The People v. Gregory Grotemeyer.

We affirm. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, June 30, 1998

Court convened at 9:00 a.m. in its Courtroom at Marathon Plaza, 303 Second Street, South Tower, Fourth Floor, San Francisco, California.

Present: Phelan P.J., Corrigan J., Walker, J., and, C. Turner Deputy Clerk.

- A074573 The People,
 v.
 Gloria Noemi Doheny,
 Cause called and argued by Dennis Riordan, counsel for appellant,
 and Shannon G. Chase, Deputy Attorney General, counsel for
 respondent. Cause ordered submitted.
- A079501 24 Hour Fitness, et al.,
 v. Superior Court of Sonoma County,
 Sierra Munshaw,
 Cause called and argued by Henry Lederman, counsel for petitioner,
 and Joseph Turri, counsel for real party in interest. Cause ordered
 submitted.
- A079502 Cunningham, et al.,
 v.
 Superior Court of Sonoma County,
 Sierra Munshaw,
 Cause called and argued by Michael Merrill, counsel for petitioner,
 and Joseph Turri, counsel for real party in interest. Cause ordered
 submitted.
- Justice Parrilli took her place on the bench. Justice Corrigan not
 participating on the following case.
- A082208 Super Young Industries,
 v.
 Superior Court San Francisco,
 Pacific Employers Insurance Company,
 Cause called and argued by Alexander Berline, counsel for petitioner,
 and John Quinn, counsel for real parties in interests.
 Cause ordered submitted.

Justice Phelan left the bench.

A079334 The People,
 v.
 Adam Ramirez,
Cause called and argued by Jim Fallman, Deputy District Attorney,
counsel for appellant, and Stephen Antler, counsel for respondent.
Cause ordered submitted.

A080333 Marriage of Baum:
 Janet R. Baum,
 v.
 Claude A. Baum III,
Cause called and argued by Claude Baum, appellant in pro per. Janet
Baum, respondent in pro per, no appearance. Cause ordered
submitted.

court recessed until 1:30 p.m.

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, June 30, 1998

Court reconvened at 1:30 p.m.. in its Courtroom at Marathon Plaza, 303 Second Street, South Tower, Fourth Floor, San Francisco, California.

Present: Phelan P.J., Corrigan, J., Parrilli, J., Walker, J., and, C. Turner Deputy Clerk.

Justice Phelan announced the panel on the following case and stated that Justice Walker was not participating.

A081307 In re Ray L., et al., Person Coming under Juvenile Court Law:
 Social Services,
 v.
 Ray L., et al.,
 Cause called and argued by Donna Furth, counsel for appellant,
 Robert Navarro, Counsel for parents, and Mark Estes counsel for
 Department of Social Services argued via-teleconference. Cause
 ordered submitted.

Justice Corrigan left the bench.

A080546 In Re Jessie L. Sims on Habeas Corpus:
A077238 The People,
 v.
 Jessie Lee Sims,
 Cause called and argued by Randy Baker, counsel for appellant, and
 Deputy Attorney General, David Rose, argued via-teleconference.
 Cause ordered submitted.

A076894 The Economic Empowerment Foundation,
 v.
 Charles Quackenbush,
 State Farm Fire and Casualty Company,
 Cause called and argued by Gilbert Coogler, counsel for appellant,
 Deputy Attorney General, Paul Gifford, counsel for Charles
 Quackenbush, and Vanessa Wells, counsel for State Farm Fire and
 Casualty. Cause ordered submitted.

A076726 Thomas A. Cohen, et al.,
 v.
 First Republic Thrift & Loan,
 Cause called and argued by Thomas Cohen, counsel for appellant, C.
 B. Cohler, counsel for First Republic Thrift and Loan, and Eugene
 Yamamoto, counsel for Common Wealth. Cause ordered submitted.

A077408 Marvin Patrick Morris,
 v.
 The Commissioner of Real Estate,
 Cause called and argued by William Gilg, arguing via-tele-
 conference, and Deputy Attorney General, Joyce E. Gee, argued via
 tele-conference. Cause ordered submitted.
 court adjourned